

Appl. No. 10/607,683
Atty. Docket No. 8797R
Amdt. dated August 25, 2005
Reply to Office Action of June 7, 2005
Customer No. 27752

REMARKS

Claim Status

Claims 1, 4-6, 12 and 15-17 are pending in the present application. No additional claims fee is believed to be due.

Claims 2-3, 7-11 and 13-14 are canceled without prejudice.

Claim 1 has been amended to set forth that the wrapper provide a signal indicating a pre-determined absorbent article performance characteristic and that the pre-determined absorbent article performance characteristic be displayed as a distinctive color on said wrapper of each of said absorbent articles. Support for the amendment is found at page 7, line 3 – page 8, line 29 of the specification.

Claim 12 has amended to add the term “absorbent” to be consistent with the term set forth in Claim 1. Claim 12 has been amended to depend from Claim 1.

In addition, new Claim 15 has been added. Support for this amendment is found at page 6, lines 3-6 of the specification. New Claims 16 and 17 have been added as well. Support for these amendments is found at page 8, lines 30-34 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §102 Over Box of Tampons

Claims 1-5 have been rejected under 35 USC §102(b) as being unpatentable over The Box of Tampons at the Museum of Menstruation and Women's Health hereinafter “Box of Tampons”. Claims 2-3 have been canceled. This rejection is traversed.

The Box of Tampons includes a container having a layer forming an interior space and having an interior surface and an exterior surface. A plurality of tampons are stacked within the interior space of the container. The tampons have a thickness and are individually wrapped in a wrapper. Each wrapper has a red background color and numerous colored designs of multiple colors. The exterior surface of the container has the same red background color and numerous colored designs of multiple colors as displayed on each wrapper.

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Claim 1 of the present invention requires that each wrapper provide a signal indicating a pre-determined absorbent article performance characteristic and that the signal be displayed as a distinctive color on each wrapper and also on the exterior surface of the container. The Box of Tampons does have a pre-determined absorbent article performance characteristic displayed on the exterior surface of the container in the form of a yellow band in the bottom right corner of the front panel indicating that the tampons within the container are all of "Normal" absorbency. However, the wrappers on each of the tampons do not have the "Normal" absorbency characteristic in the form of the yellow color displayed thereon. The numerous colored designs displayed on the wrapper and the exterior surface of the package are present for a decorative purpose and do not serve to indicate a pre-determined absorbent article performance characteristic. Said another way, if the consumer removed a tampon from the box and inspected only the wrapper on the tampon the red background color and the numerous colored designs would provide no indication as to the absorbency of the tampon. The user would have to inspect the exterior surface of the container to find the absorbency as indicated by the yellow band located in the bottom right hand corner on the front panel of the container. Thus, the Box of Tampons does not anticipate independent Claim 1 of the invention. Since Claims 4-5 depend from independent Claim 1 they are also patentable over the Box of Tampons for the same reason as independent Claim 1.

Rejection Under 35 USC §103(a) Over Box of Tampons in view of Kuske et al.

Claim 6 has been rejected under 35 USC §103(a) as being unpatentable over Box of Tampons in view of Kuske et al. (US 6,318,555). This rejection is traversed.

The combination of Box of Tampons and Kuske et al. does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of Claim 1, from which Claim 6 depends. As mentioned above, Box of Tampons does not have a signal indicating a predetermined absorbent article performance characteristic present on both the wrappers and the exterior surface of the container. Kuske et al. does not teach or suggest this missing feature. Accordingly, Box of Tampons and Kuske et al. does not render obvious independent Claim 1 or any of its' dependent Claims. Claim 6 is therefore patentable over Box of Tampons in view of Kuske et al.

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Rejection Under 35 USC §103(a) Over Box of Tampons in view of Brisebois et al.

Claims 7-14 have been rejected under 35 USC §103(a) as being unpatentable over Box of Tampons in view of Brisebois et al. (US 6,454,095). Claims 7-11 and 13-14 have been canceled. This rejection is traversed.

The combination of Box of Tampons and Brisebois et al. does not establish a *prima facie* case of obviousness because the combination does not teach or suggest all of the claim limitations of Claim 1, from which Claims 12 and 15-17 depend. As mentioned above, Box of Tampons does not have a signal indicating a predetermined absorbent article performance characteristic present on both the wrappers and the exterior surface of the container. Brisebois et al. does not teach or suggest this missing feature. Accordingly, Box of Tampons and Brisebois et al. does not render obvious independent Claim 1 or any of its' dependent Claims. Claims 12 and 15-17 are therefore patentable over Box of Tampons in view of Brisebois et al.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC 102 and 103. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 4-6, 12 and 15-17 is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


Signature

Kevin C. Johnson

Typed or Printed Name

Registration No. 35,558

(513) 634 3849

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Customer No. 27752